

Submitted May 25, 2005
Approved As Amended
Date May 25, 2005

MINUTES OF THE ROCKVILLE PLANNING COMMISSION
MEETING NO. 7-05
Wednesday, April 13, 2005

The City of Rockville Planning Commission convened in regular session in the City Hall Council Chamber Room at 7:00 p.m., Wednesday, April 13, 2005.

PRESENT

Frank Hilton, Acting Chair
Steve Johnson Kate Ostell
Robin Wiener

Absent: John Britton
Gerald Holtz

Present: Art Chambers, Director, Community Planning & Development Services
Scott Parker, Acting Chief of Planning
Sondra Block, Assistant City Attorney
Castor Chasten, Planner III
Deane Mellander, Planner III
Sandra Marks, Transportation Division

Commissioner Hilton announced that it is with the sadness and sense of loss that he must report this evening that the Commissioner Britton is not present because he and his family lost his father this past weekend. He said the Commission wishes the family the very best and that they are in their prayers.

REVIEW AND ACTION

Use Permit Amendment USA97-0577A, Rockville Metro Plaza I, LLC

The applicant is proposing to amend an existing approved use permit to add an additional floor to the Phase III building of the Foulger-Pratt project located at East Middle Lane.

Mr. Mellander presented a staff report. He stated that this application is the result of a preliminary development plan amendment that was requested by the applicant to set Phase III back an additional 15 feet from the adjoining property on East Middle Lane to provide additional light and air and as a consequence add another floor on the top of the building with no change in floor area and no change in the rest of the site plan or traffic generation. This amendment is solely to relocate the one side of the building away from the adjoining new developments occurring today. This amendment is consistent with the PDP and the rest of the original approval.

Mr. Mellander pointed a minor correction to one of the recommendations, which was repeated in another condition of approval in the staff report.

Commissioner Ostell questioned page 3, #4 of the optional method requirements regarding the shadow study. She pointed that the condition states that with the 10-foot setback of the new story at the top, and the added 15 feet of the setback along the side of the building, any shadow falls primarily on the parking garage proposed behind the Block 5 building on Lot 18 in the a.m. She questioned where else the shadow would fall other than the parking garage. Mr. Mellander explained that it falls on its own property.

Commissioner Hilton asked staff if Phase II never comes to fruition, what would happen to Phase III. Mr. Mellander replied that everything expires and the applicant would have to begin all over again.

Commissioner Ostell inquired what would happen if the applicant wants to build Phase III first. Mr. Mellander explained that it is based on the square footage of the project and if the applicant decides to build Phase III, and it becomes 60% of the total floor area, than the Phase II building would still be a part that is in the timeframe.

Barbara Sears, Attorney, presented the request. She explained that the additional 15 feet did necessitate the optional method. This amendment would give better light and air to the building. She noted that the conditions are acceptable to the applicant.

COMMISSION DISCUSSION

Commissioner Johnson moved, seconded by Commissioner Ostell to approve Use Permit Amendment USA97-0577A, Rockville Metro Plaza I, LLC as presented by staff. The motion passed on a vote of 4-0.

Final Record Plat PLT2005-00442

The applicant is requesting a two-parcel subdivision on the southwest corner of Veirs Mill Road and First Street.

Mr. Parker presented the staff report.

Barbara Sears, Attorney, presented request. She said that they have no problems with the staff report.

Commissioner Ostell moved, seconded by Commissioner Hilton to approve Final Record Plat PLT2005-00442 per staff recommendations. The motion passed unanimously.

Use Permit Application USE2005-00683, Christ Episcopal Church

Commissioner Hilton disclosed that he is a parishioner of Christ Church, but is not involved with the church school. He said he feels he could vote on this matter with objectivity and if he would recuse himself, there would be no quorum. The Commission and the applicant had no objections.

The applicant is proposing to reorganize the existing school; convert the existing office building at 22 West Jefferson Street for use of the church school and reorganization of site parking.

Mr. Chasten presented the staff report. Mr. Chasten stated that this proposal before the Commission tonight is submitted in accordance with previously approved Special Exception SPX2004-00347. Mr. Chasten stated that the subject properties are located at 107, 109, 119 and 119½ South Washington Street. The preschool and kindergarten programs operate at 119 and 119½ South Washington Street. The Church Rectory is located at 107 South Washington Street. Under the proposal submitted, the existing School will be expanded to include the property located at 22 West Jefferson Street. In an effort to accommodate a projected increase in student enrollment, the Church purchased the property located at 22 West Jefferson Street several months ago. The West Jefferson Street property is improved with a four-story office building of masonry construction and approximately 24,000 square feet in size. The planned school construction will be implemented in stages over the next several months. The school provides educational instruction to children in grade k through eight. The applicant projects that the school enrollment would increase from 397 students by the year 2007. The school staff with 42 employees is projected to increase to 92 employees. The school operates on a weekday schedule starting at 8:45 a.m. and ending at 3:15 p.m., with an option for earlier arrival starting at 7:30 p.m. The academic school year begins in September and ends in June. The vast majority of the children arrives and departs the site by way of private vehicle. Vehicular access to the site is currently provided by way of entrances on South Washington Street and West Jefferson Street. Staff notes that when the school is operational out of the West Jefferson Street building, the existing site entrance will be referred to as a “one way only” exit from that part of the property. On-site parking is provided to the rear of the Church and at 22 West Jefferson Street as well as along the southernmost entrance out onto South Washington Street. As tenants vacate the building at 22 West Jefferson Street, the interior of the building is being remodeled for the school’s use and occupancy of staff and children. No exterior renovation of the building is planned with the exception of a new rear exterior stairwell, which is being constructed in compliance with Fire and Safety regulations.

Mr. Chasten stated that, based on the plans as submitted, the first three levels of the four-story office building will eventually be devoted to classroom use, while the fourth floor will be converted for use as a faculty lounge, possible art studio and other ancillary support space. The preschool will be continued to be housed in the facility located at 119 and 119½ South Washington Street. The kindergarten through 8 grade classes will be divided between the main school building and the new academic building at 22 West Jefferson Street. Students will continue to arrive and depart school via private vehicles. All vehicular traffic will access the site via the southern entrance on South Washington Street. There will be a designated on-site drop-off and pick-up area for children arriving and departing the school site. The site’s parking lot will be restriped to create 92 vehicular parking spaces. In accordance with the Zoning Ordinance, a total of 89 parking spaces are required for the church and school site uses. Staff notes that the Church as a 250-seat sanctuary, thus 63 parking spaces would be required based on the Zoning Ordinance. When the school staff and faculty increases to the projected 93 employees, the applicant

would have been required to provide 46 on-site parking spaces in lieu of the 26 spaces provided. Mr. Chasten stated that the Board of Appeals granted a parking reduction waiver of 16 percent, a reduction of 17 spaces from the 109 parking spaces that would have been required with the projected staff increase.

Mr. Chasten noted for the record that Condition 2. h. somewhat differs from the Board of Appeals condition of approval. Condition 2.h. differs from the Board's Condition 9 and staff has included the Board of Appeals's approval. Mr. Chasten explained that the difference is that in the Board's approval, the Condition read "A four-foot sidewalk and a 6 foot tree panel would be provided along streetscape for West Jefferson Street. He noted that those numbers were transposed. He said the Condition before the Planning Commission tonight is consistent with what staff had originally hoped that the Board would approve. Mr. Chasten stated that the condition should read "That the streetscape would include a six foot wide sidewalk and a four foot **grass** buffer." He explained to the Commission that the Board would be meeting on May 7 staff will explain the discrepancy and if the Board does not agree with the numbering sequence, the applicant would have to go back before the Board to ask the Board to amend that condition.

Mr. Chasten also pointed out Condition 2.i. in the staff report. Staff would like the Commission to modify the condition to make it more explicit and staff has language that both staff and the applicant have agreed to. The Condition should read, "Remove and relocate the chiller out of the existing City sewer easement prior to issuance of the last occupancy permit for 22 West Jefferson Street or by September 2008, whichever occurs first. In the event a problem with the sewer line appears prior to that time, the City would require access to the sewer easement and the applicant would immediately remove and relocate the chiller at the applicant's expense." Mr. Chasten noted that when this condition was originally written, it was written open ended and staff agrees that it should be more defined.

Sondra Block referred to Condition 2.d. regarding a maintenance access easement that must be provided to the SWM facility and an easement for the existing sanitary sewer in the former Church Street right-of-way. Because of all the documents being recorded to clarify the status of the former Church Street, the City actually needs easements from all of the abutting property owners that are in that area and the applicant is working to get those easements.

Commissioner Johnson asked staff to explain to him why the public art is not required. Mr. Chasten replied that religious institutions are exempt from that requirement.

Ms. Block explained that there is an exception for this use because school art programs would qualify.

Mr. Chasten noted that a memo from Chris Heckhaus, Recreation and Parks Administration Manager, dated February 18, 2005 has been distributed to the Commission that explains the matter.

Commissioner Johnson asked why is there a minimum of 10 bike racks are to be provided on-site. Ms. Marks stated that that was an error; the recommendation is for 10 bike parking spaces.

Commissioner Ostell asked staff to clarify the traffic pattern.

Sue Lee Cho, Attorney, stated that they have been in discussion with staff and they are in full agreement with the conditions and proposals this evening.

Commissioner Ostell moved, seconded by Commissioner Johnson to approve Use Permit Application USE2005-00683, Christ Episcopal Church per staff recommendations with the changes to Conditions 2a, 2d, 2h and 2l. The motion passed unanimously.

RECOMMENDATION TO THE MAYOR AND COUNCIL

Concept Plan Amendment CPD1999-0004A, Fallsgrove Associates

The applicant is requesting approval to 1. Allow a hotel of 125,000 to 150,000 square feet in lieu of a corresponding amount of office. 2. Permit office development in lieu of multi-family development on a residual multi-family residential parcel. 3. Allow a childcare facility as an approved use in Fallsgrove. 4. Transfer unused retail space from the Village Center to one of the neighboring commercial parcels.

Mr. Parker presented the staff report. He said that this is the second time this application has come before this Commission. At its December 1, 2004 meeting, the Planning Commission recommended to the Mayor and Council denial of the hotel use and the office use on Woodhill Road. The Commission, however, recommended approval of the daycare use and the additional accessory retail use. Since that meeting, the applicant has held several meetings with the citizens in the Fallsgrove community, as well as two “mini design charrettes,” so that comments could be elicited from citizens and an accord could be reached with the adjoining neighbors of this property. Mr. Parker stated that a Memorandum of Understanding (MOU) agreement between the applicant and the members of the HOA has been signed by the majority of residents near this property who are satisfied that the issues formerly associated with this project have been successfully mitigated. Mr. Parker stated that staff has reviewed and is comfortable with the MOU believing it is an improvement on the previous application. He noted that the MOU is not binding on the City of Rockville and it cannot be contrary to any of the City’s laws or with any of its regulations. It is an agreement between the applicant and the members of the Homeowners Association for which this agreement is going to be signed. It is stated within the agreement that it cannot be contrary to any of the City’s laws. Mr. Parker stated that he has not seen anything that is contrary to the City’s laws or would provide a problem for the Planning Division.

Commissioner Johnson asked Ms. Block about the proposal. He said he has read a lot about the fact that this proposal is better than what has been approved. He asked what is being proposed and whether it is consistent with the neighborhood and the public interest.

Mr. Block stated that the application must meet the all of the required findings required in the Zoning Ordinance. Staff believes that this proposal is better and there would be less impact on the community.

Commissioner Wiener said that there have been many great promises made to the residents by the applicant. She said that she could see that if there is a problem with this coming back to the City.

She asked if there were anything that the City could do to help if that would happen. Ms. Block stated that the City is not going to get involved with enforcing this agreement. Any agreement between the parties unrelated to the essence of what is being approved, the City could not get involved with enforcing private agreements. Mr. Parker explained that this is a concept at this point. There are only representations of what the hotel would look like and the basic design on a sketch level, but a detailed application would have to be filed for this proposal. Mr. Parker encouraged staff that this application is going to be part of the record. These items will be incorporated into the detailed application. The City will not be responsible for the enforcement of the MOU agreement.

Ms. Block explained that when the detailed plan does come before the Planning Commission, it would have to exercise its function, independently, of the parties' agreement.

The Commission and staff discussed inserting language in the MOU that the City would not be involved in the MOU.

Commissioner Ostell asked Ms. Block what would happen if the MOU comes to arbitration down the road, and the developer is gone, the hotel has been built, would the arbitration then be between the HOA and the hotel. Mr. Parker replied that the applicant's attorney is present tonight, he has been working through this agreement, and that it would be best to speak with him.

Ms. Block stated that she would assume that the developer has signed its obligations to the MOU. Mr. Parker noted that the preponderance of the issues is going to be finalized at the time of the detailed application.

Commissioner Hilton asked staff what the Mayor and Council said after the Commission gave them a recommendation on this issue. Mr. Parker replied that this did not go before the Mayor and Council. The public hearing request was withdrawn.

Commissioner Hilton asked the status of the Homeowners Association. Mr. Parker replied that the people present tonight is a fully functioning homeowners association for the property at Blackwell Road and each individual pod of Fallsgrove has fully functioning HOAs. Mr. Parker stated that he believes that there is an overriding master HOA.

Arthur Fuccillo spoke on behalf of the developer, SGB Associates, and Fallsgrove Associates. Mr. Fuccillo apologized to the Planning Commission and the residents of Fallsgrove as one of the original developers and when they were before the Commission the last time, they did not do enough work with the Fallsgrove community and, in particular, the condominium residents with regard to this application. He said that the developers believe that this amendment would benefit the quality of life in this very successful community. When the applicants left the Commission last time, they had a choice – withdraw the application in accordance with the comprehensive development plan or take a deep breath, realize they had failed at communicating with the residents of Fallsgrove and try wholeheartedly to make the proposal work. They decided that they needed to show the residents that what they were proposing would be much better for their community. He pointed out that after over 20 meetings; it has been the residents of Fallsgrove, who have shown the developer what is best for them. As a whole, the residents are to be commended for their work.

Mr. Fuccillo stated that the developer and the HOA have reached a contractual agreement. He said he hopes the contents of the agreement would find its way into the Commission's approval and into the detailed applications. If the Commission, the Mayor and Council and staff, can agree to those specific land use issues, the work the residents and the developers have done, will not have been in vain. Mr. Fuccillo remarked that some residents did not participate in the meetings by choice. They notified them and welcomed their input. He said that those who did participate made this application better and for that, the applicants are extremely grateful.

Commissioner Wiener questioned whether the agreement includes language that states that the City of Rockville is not involved. Mr. Fuccillo replied, yes, there are many things in the agreement. For example, heights of buildings, the height of the hotel, the height of the office building, the height of the parking garage, the landscaping, and the parking the developer is building for the citizens, which will be part of the detailed application. Commissioner Wiener stated that that was not what she was asking. Mr. Fuccillo stated that those things in the agreement that would become part of what they would submit to the Commission that would be enforceable by the City. There are things, for example, that the Commission might not become the enforcer of, but the developer is contractually obligated and they would own the hotel; the hotel is not to be owned by Hilton. Hilton hotel is the flag, only.

Commissioner Johnson stated that Mr. Fuccillo introduced himself as SBG Associates and he does not see that name anywhere in the agreement. Mr. Fuccillo replied that SBG Associates is the subsidiary of Lerner Enterprises and Lerner Enterprises owns the two parcels of land (Parcels A & B and Fallsgrove Associates owns Parcel C). He stated that with the Commission's recommendation of approval and the Mayor and Council's decision in favor of the amendment, they would immediately follow in the months ahead with detailed applications for all three of these properties at the same time.

Commissioner Ostell inquired that when the hotel is completed, any arbitration that should become necessary would be with the developer. Mr. Fuccillo replied, yes, and, hopefully, that would not become necessary.

Commissioner Ostell asked about the process of all of the meetings. She asked whether they were with the leadership or with the entire community of Fallsgrove. Mr. Fuccillo replied that they notified the entire community. They held seven public sessions and then had a series of additional meetings with those residents who came forth with suggestions that the developer kept information on and then they had a series of meetings on the contract agreement itself and everybody had the opportunity to come in with additional suggestions and wording with the language. Commissioner Ostell pointed her concern that not all of the residents received notification. Mr. Fuccillo replied that he would be severely taken aback if not anyone had heard over the last three months relative to this process. Commissioner Ostell asked what fraction of the homeowners participated in the process. Mr. Fuccillo replied that 100% of the condominium residents participated and about 25% of the rest of the Fallsgrove community. It was a very open process and they worked through every detail of the proposal and worked with the Master HOA and the sub HOAs of the community.

The Commission discussed concerns about whether Blackwell Road is a public street, parking on Blackwell Road, multi-modal center, utilization of public transportation on the site, and the number of notifications to the community from the City.

Commissioner Hilton stated to the audience that, if the Commission was to recommend to Mayor and Council all four items regarding the modification of the development plan, does not constitute the Commission's pre-approval of the elements of the MOU.

The following citizens testified:

1. Thiel Sullivan, 701 Fallsgrove Drive, #404, President of Homeowners Association of Condominium Residences II, stated that there are 48 units in this building. He noted that his Condominium Board of Residences II and Condominium Residences I of Fallsgrove, Inc. signed the MOU. Mr. Sullivan said that when the concept was first presented, the owners of the Condominium Residences I and II of Fallsgrove had many concerns, even though there appeared to be some merit in the revised concept plan. The Condominium Residences I and II Boards of Directors decided to see if many of the concerns could be alleviated by reaching a formal agreement in the design changes with the Fallsgrove developer to see if they could reach a win win situation for Condominium units, for the Fallsgrove community, the City of Rockville, and the developer. The position of the Condominium Residences of I and II of Fallsgrove is that they did formal and recorded polling of all the unit owners in both HOAs, a total of 97 units representing the two HOAs. Mr. Sullivan pointed out that 78 unit owners approved the revised concept plan in conjunction with the agreement; five unit owners did not approve the revised plan and three unit owners chose not to participate in the polling and eight unit owners could not be contacted. As a result, 91% of the unit owners support the revised concept and the agreement. The rationale for supporting the revised concept plan is that twelve of the units in Building I, eighteen of the units in Building II, seven of the units in Building III and seven of the units in Building IV would have a much broader vista with no office and garage building on Parcel A and a lower garage structure on Parcel B. The minimum distance from the condominium buildings to the proposed hotel would be approximately 250 feet compared to about 50 feet for the multi-story parking garage as planned in the original concept plan for Parcel A. The berms with tall evergreen trees with latticework between floors and the latticework with evergreen arrangement on the edge of the garage would significantly shield the garage structure on Parcel B and provide a more attractive appearance to the residents who face that direction. Mr. Sullivan continued to state that 20 parking spaces on Parcel B for the condominiums in Fallsgrove with an entrance on Woodhill Road would significantly alleviate parking shortage by the residents and their guests in the condominiums. Mr. Sullivan pointed out that traffic with a hotel would be much less than office buildings. The landscape plan addresses appearance concerns. There is planned subdued lighting, and nighttime security for the hotel would be provided. He said that there are many empty nesters in Fallsgrove and a hotel near walking distance would be good. Mr. Sullivan asked that the Commission recommend approval of this revised concept plan.

2. Arthur Goldberg, President of Fallsgrove Civic Association stated he wrote a letter in the newsletter regarding the details of the proposed hotel and it was sent out to every resident and to the office buildings. Mr. Goldberg said that he noted that there was very little interest shown from people who live away from the condominiums. He said that whenever he talked to people about the

hotel, they thought it was a good idea. He noted that he attended a number of the meetings and he made some suggestions and listened to the people and as President of the Civic Association, he was interested in supporting the condominium residents who were directly involved in this project. He said he was very impressed with how they worked so hard with the developers to come up with a good solution to all the issues that they raised. Mr. Goldberg said that as President of the Fallsgrove Civic Association, he supports the majority of the condominium owners.

3. Barbara Anderson, 9405 Blackwell Rd, Condominium Building 1 stated her concerns about compatibility of a hotel in a residential area. She said that not everybody in the building was able to get a garage. Ms. Anderson said that when she comes home at night she has to park on Blackwell Road. She addressed her concerns with a hotel in terms of safety and parking.

Commissioner Ostell asked Ms. Anderson if she believed a hotel would be more or less safe than an office building. Ms. Anderson replied that she believes that an office building would be safer because it would have people in the daytime and hotel has people there at night. She asked what would happen if the hotel is sold later on and they do not know whether the hotel would have a bar and it would bring other people in the area at night and she sees that as a bad thing. Ms. Anderson noted that many people in the area have second homes in Florida, they have been gone, they are just arriving back in town, and they should be informed of this project as well.

4. Michael LeVent, 9403 Blackwell Road, stated that he resides in Condominium Building III and their HOA is not a party to the MOU. He noted that prior to his moving in to his unit in April 2003, he was shown a pamphlet for one future office building at the corner of Woodhill Road and Key West. In addition, he was advised by a sales representative of the likelihood of another future medical building on the corner of Blackwell Road and Shady Grove Road comparable to those that are there now as well as an office building on the opposite corner similar to the developers' then existing principal three story office center. Mr. LeVent since learned that this Commission had a meeting on December 1, 2004, when it considered an application by the developers to amend the original concept plan in order to build a hotel on one of these parcels and a five-story on the other parcel. He said he was pleased to hear that the Commission had unanimously rejected the construction of a hotel at the corner of Blackwell Road and Shady Grove Road and by a 5-2 vote had rejected the structures on any of these parcels exceeding four stories. While, he was not informed of the Commission's rationale for its recommendation, he assumed it was based on the Commission's desire to provide the future development in keeping with the residential nature of the Fallsgrove community. In January 2005, he attended a presentation by the developer to inform the local residents of their amended concept plan. The developers advised them that the original concept plan called for two twelve-story office buildings with adjoining parking structures; one a five-story factory-like structure that would extend back to face Buildings III and IV of the Fallsgrove Condominiums and another of somewhat smaller proportions that likewise extend back to face one edge of Building IV. The developers then stated that the residents could be relieved of this obviously objectionable plan if they were willing to support the developers' amended plan, which now included, not one, but two hotels, each a six-story structure with a roofline approaching eight stories one corner of Blackwell Road and Shady Grove Road and a five-story office building on the other corner with an adjoining two-story parking structure, again extending back to the condominiums. The question is – what has changed in the plans. He said he submits that this

Commission's determination upon reconsideration of the application should not be based on the developers' offer of a few incentives to those individuals who would favor their application, but rather it should rest on sound residential community standards. Mr. LeVant urged the Commission to consider the many adverse impacts that the developers' present plan would have upon the residential community and not to reverse its previous recommendation

Commissioner Ostell stated that the Commission had nothing to do with changing the approved size of the office buildings. Mr. Parker stated that there was no vote to restrict the size of the office buildings on Shady Grove Road.

In response to Commissioner Johnson, Ms. Block explained that Comprehensive Planned Development (CPD) process and stated that the Commission is required to pass on recommendations to the Mayor and Council regarding CPDs. The Mayor and Council would then make the final determination on that type of application.

5. Michael Messitte, 701 Falls Grove Drive, Condominium Building II, stated that 119 units in all four of the condominium buildings. In Buildings I, and II, where the MOU was drafted, 78 of 97 unit owners have voted in favor of the hotel. He said that some of the people were not contacted, some abstained, and some opposed the proposed hotel. Mr. Messetti stated that the two smaller buildings were not part of the MOU - each has 11 units. As a result, there are 22 units against 78 units. The majority of the owners are voting for the proposed hotel.

6. Louise Bittker, 9407 Blackwell Road, Condominium Building IV, stated that her condominium is nearest to the proposed hotel. The two hotels and office building would directly impact her. She said that her windows would look directly onto the structures. Ms. Bittker stated that one of her primary concerns is security. She said that when she broached the subject at one of the Falls Grove Associates meetings in regard to the proposed hotel, they responded to her by saying that she should take up any problems that will occur in the future, with the hotel's front desk person. Ms. Bittker stated that Falls Grove Associates informed her that 1) they do anticipate that there would be problems; 2) when the problems occur, she would have to walk or drive to the front hotel desk, find that hotel person, wait until that person is free, explain the problem, and then have the person come with her to try and solve the problem, and 3) her security would depend on some very young desk clerk who would be as frightened as she would be. That would not be enough security for her. She said she is against the proposal.

7. Josephine Boscia, 9403 Blackwell Road stated that she has lived in Rockville for 42 years. She loves her new condominium and is very sad about the proposal. Ms. Boscia questioned the survival for all in Falls Grove. She said there are currently, wall-to-wall cars parked along Blackwell Road during the day. She said that, originally, a 4-story office building was proposed and she believes she would like that better because there would be less parking on weekends. She believes this hotel would be a mistake.

8. Dunya Hecht, 9403 Blackwell Road, addressed her two concerns. She said she is against the hotels being built because she lives alone on the ground floor. Security is a huge issue for her. The occupants of the hotel would not have a vested interest in community. She said she does not want a

fence; she did not move to a gated community and she resents the offer by the developer to close her in. She pointed out that gates do not encourage people to get to know their neighbors. Fallsgrove is a new community trying to live and work together. Ms. Hecht stated that her HOA has not had the same contact as the other HOAs. Their building would be the most impacted by the hotels. It would undermine their sense of community. They need the Commission to help in preserving their community.

9. Jerry Postal, 701 Fallsgrove Drive, Vice President of Condominium Building II, stated that the traffic from the proposed hotel would not be greater than an office building. He pointed out that an office building could be 24/7. There are no working hours of limitation on an office building from 9-5. There are many offices in the Rockville/Gaithersburg area that do operate 24/7, and with the different types of businesses in those offices, security becomes an issue. If the hotel were to be built, they would have security. Mr. Postal said he was a victim of gunshots in a secure location, so it really does not matter where you are or what you are doing – anything could happen. It is better to have some security than no security. He said most of the owners in his building are in favor of a hotel. They would much rather see a hotel on the site than an office building. Mr. Postal noted that his unit overlooks what would be a hotel and he would much rather see a six-story hotel than a 12-story office building on that site.

10. Bonnie Kline, 9405 Blackwell Road, Condominium Building I expressed her views. She said that security is important to her and she was told by her doctor to take a walk every day. She said it would be safer to walk past a six-story hotel rather than vacant office buildings. Small hotels are more sensitive to security issues and more compatible with residential life. Ms. Kline said that she has out of town children who may want to stay at the hotel as well as families of patients of Shady Grove Hospital who may want to stay at the hotel. Ms. Kline said that these ideas are comforting as she is opposed to 12-story office buildings.

11. Jeff Weber, President of the Fallsgrove HOA, stated that he represents 374 homes some of which are in very close proximity to the subject property. Mr. Weber stated that when he was in December 2004, the four issues that his HOA had were: 1) the height of the buildings; 2) the multi-modal center; 3) the traffic in the shopping center; and, 4) the Lerner Enterprises' communication with the homeowners. Mr. Kline stated that Lerner Enterprises went above and beyond in communicating with the homeowners. They made adjustments to the height of the buildings. He pointed out that Fallsgrove HOA is in favor of the hotel over the office building. Mr. Kline said that the HOA had its annual meeting last Monday and there was no opposition to the hotel. Mr. Kline pointed out the remaining issues such as the insufficient ride-on service in Fallsgrove. Currently, the residents get service approximately 2.5 hours in the morning, 2.5 hours in the afternoon, nothing during the day and nothing on the weekends. He noted that their sister community in Travilla gets ride-on service all day during weekdays and on Saturdays, and every bus stops at Shady Grove Hospital. It would not be a very big inconvenience to stop at Fallsgrove Village Center as well. The second issue is access to the shopping center, which is a disaster during the day. They would really need the City's help in trying to get that additional entrance off of Shady Grove Road. Aside from those issues, they are in support of the proposed hotel over the previous office structures.

12. Stan Scheiner, 701 Fallsgrove Drive, Condominium Building II stated that he is also a member of the Board of Directors of the Building II HOA. Mr. Scheiner stated that the land use regulations that exist today are unchanged from those, which were in effect when he and his wife and most of the homeowners in their development purchased their condominiums. He pointed out that if a hotel had been planned at the time of purchase, they would not have made the decision to purchase. Mr. Scheiner stated that they have lived in Fallsgrove over one year and if the land use regulations are changed now, it is obvious that he and his wife and many of his neighbors have been misled and deceived. He noted that there are many hotels that exist nearby and some of them are undoubtedly necessary. Recently, two other hotels have been proposed in nearby communities classified as mixed-uses like Fallsgrove. It should be noted that both of the developments are much larger than Fallsgrove and the proposed hotels are much smaller than the ones Lerner Enterprises would like to build in their backyard. The proposed hotels would be located in commercial areas far away from nearby homes in King Farm and the Kentlands. Mr. Scheiner stated that the proposed hotel in Kentlands was rejected because of the objections to the residents. The one approved in King Farm is less than half the size of what Lerner wants. But, in their case, the developer wants the residents to believe that if they do not accept hotel, they may get something much worse such as large office structures and parking garages. Mr. Scheiner stated that they are depending upon the Planning Commission to act in the best interest of the residents.

13. Pat Sussman, 9407 Blackwell Road, stated that most of what she had to say this evening Mr. LeVant already stated. Mrs. Sussman stated that she completely opposes the hotel. She said she never would have purchased in Fallsgrove if she thought this would be a possibility. She pointed out that their future enjoyment and contentment in living in Fallsgrove rests with the Planning Commission.

14. Morty Sussman, 9407 Blackwell Road stated that the residents who own condominiums in Buildings I and II who approve the hotel do not face the hotel. Mr. Sussman stated that there are 22 units in Buildings III and IV, those units all have direct access to the hotel, and all 22 residents do oppose the hotel. He urged the Planning Commission to recommend denial of the hotels.

15. Elayne Scheiner, 701 Fallsgrove Drive, Condominium Building II stated that as a new resident of Rockville, she is impressed with the overall objective of the governing entities to use a higher standard in providing, the Mayor's words, "an ideal experience" and she commends the Planning Commission. Mrs. Scheiner stated that the Planning Commission voted against the hotel in December 2004. She said that they knew from the brochure that somebody gave them and the community mock-up that was available to all perspective buyers in the Information trailer and the subsequent visit to Scott Parker that a hotel was planned for the site on Blackwell Road and Shady Grove Road. If it had been a hotel, she doubts very much whether they would have purchased in Fallsgrove. Mrs. Scheiner stated that they moved into the Fallsgrove community for an enriched and secure life style. The impact of more vehicular traffic and the primary road for trucks is going to be directly opposite Buildings II and III on Blackwell Road. Mrs. Scheiner expressed her view that she believes that they do not need another hotel for she feels the area is already saturated with hotels. She pointed out that the King Farm community has approved a hotel far from the residences, and the hotel in Gaithersburg was rejected by the community. She asked the Planning Commission not to make an exception of the residents of Fallsgrove.

16. Leonard Shapiro, 9407 Blackwood Road, Condominium Building I stated that he was a party to the agreement and the charrettes that were held and he stated that in every instance when the residents raised a concern, it was either addressed or a compromise was reached. Mr. Shapiro stated that four residents who own condominiums that face the site and they voted in favor of the proposed hotel. They are concerned with traffic and the developer has agreed to fence their property so that it would be less accessible. As far as security of their building is concerned, the hotel is not going to allow any more disruptions as it was pointed out in their discussions with the developer. Parking on Blackwell Road is a problem and that is why they negotiated twenty spaces. Those spaces are for the use of the residents and their guests in their building. Mr. Shapiro stated that he voted for the hotel. He noted that there is no less security from a hotel than from an unoccupied office building in the evening. Mr. Shapiro said that most of their concerns were addressed, and he pointed out that part of the negotiations were that there would be no bar in the hotel. Therefore, he supports the hotel.

Commissioner Wiener asked Mr. Shapiro if they had participation from residents in Buildings III and IV. Mr. Shapiro stated that they all opposed to the hotel and would not agree to the amendments that were made. All of the negotiations were made because those residents did not want to participate.

17. Richard Ziedman President of Condominium Residences III and IV said that they did participate up until March 11 2004 in the negotiations and then they backed out. He stated that the facts have changed since the December 1, 2004 meeting. The hotels would destroy their vista and there would be added traffic congestion, especially with the ingress and egress on Blackwell Road. Mr. Ziedman stated that they are concerned for the safety of the children and seniors. The hotels would decrease the value of their homes. The lighting and hotel guests and other visitors would encroach on their property. They do not want fencing or gating; they want to enjoy the openness. Mr. Ziedman noted that Buildings I and II do not face the two hotels. Their two buildings do face the hotels. Why switch in the neighbors position. The dev. Two choices, first ugly office buildings, min. landscaping, tactics deve have hit home with some of the residents. Support for the hotel does not change the facts. He asked the Planning Commission to deny the hotels because it would downgrade the quality of life for the residents in Fallsgrove.

Commissioner Ostell – given the choice of hotel and office buildings. Prefer two office buildings. Zideman would prefer office buildings. The Planning Commission could limit those buildings to 4 stories.

Commissioner Johnson asked if Mr. Ziedman would prefer two 12-story office buildings in lieu of a hotel. Mr. Ziedman replied that he would, but he would prefer not to have a 12-story office building, but would prefer 4 stories.

18. Arnold Sherman, Vice President of Condominium Building I said he would relinquish his time to president of HOA Condominium Building I.

19. Nolan Sklute, President of HOA Condominium Building I stated that he was at the last meeting. Met with deve 15 times. He has been on the phone at least once a day over the last month. The

folks in Buildings III and IV have had every opportunity to participate. 12 residents at the meeting and voted unanimously against the hotel. Have 9 units that look down at the parking and hotel. They are in favor of this now because the developer has made concessions. He did not tell them that he was going to build two office buildings. The key is it will be in the best interest for all of the residents to opt for this hotel. They are in bldg 1 have the biggest problem vista-wise of the parking lot. They would really like a park. He thanked Lerner for the great job. listening all their views and adopting many of their views. They would be getting a cooperative project.

Commissioner Ostell – does anybody have objective data on the safety of hotels. Parker –no.

Mr. Fuccillo – cont. request. Explained the hotel service. Enjoyed working with the citizens and looking forward to the beginning of the project.

Commissioner Hilton – commented that it was a good move on the applicant part to put so much effort into this since the last meeting. Not make everybody happy tonight. Rec to mc and they could attend that meeting. Have another shot at this. Last time – horrible job in community involvement and the way it was done. Looked at 4 elements of – childcare, commercial entities away and office and hotels.

Commissioner Johnson – this exceedingly difficult. There is a lot of strong feelings on both sides. He appreciates those people who oppose and approve. No market for 12-story office buildings now. But, they could wait. The developer. Want to do something best for the city. The residents live in a mixed-use community. The hotel would be a positive facility. This amendment is a positive amendment. He commends the developer for going above and beyond. Least impacted land use that would go there.

Commissioner Ostell – most part agree with Commissioner Johnson. One of the people who opposed the hotel last time around. She thinks this is better than they proposed in Dec. To say to this because open space for the next couple of years. But it would not happen. Support this. Parcel C. said not to that last time. Maybe yes to that. Can't do anything about the parking.

Commissioner Hilton – felt that hotel was the best choice. Lack of communication with Lerner. Much better to work with the citizens. After looking at what they have done so far that she agrees that the hotel is a better use than a 12-story office building. Could be put up now and in five years. Support all of them.

Commissioner Hilton – this City works hard at trying to make transitions. This particular proposal is a much milder transition than a 12-story office building. Much more in keeping with what they are trying to do in Rockville.

Commissioner Johnson – The balance that he has down –not between hotel and office bldg. least impacted land use than an office building.

Commissioner Johnson moved, seconded by Commissioner Hilton to recommend approval of Concept Plan Amendment CPD1999-0004A, Fallsgrove Associates to the Mayor and Council per staff recommendations. The motion passed unanimously.

COMMISSION ITEMS

Commissioner Hilton acknowledged the fact that this is Mr. Scott Parker's last meeting. The Commissioners wished Mr. Parker the very best on his next endeavor.

Minutes

The minutes were passed along to the next meeting.

Old Business

Commissioner Johnson inquired about the meeting dates in August.

Commissioner Hilton replied that the Commission would vote on the date at the next meeting.

ADJOURN

After further discussion, the meeting adjourned at 9:38 p.m.

Respectfully submitted,

Tyler Tansing, Commission Secretary